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# The Commonwealth of Massachusetts

# PRESENTED BY:

# Colleen M. Garry

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to enhancing public transparency to support quality care outcomes in all child serving organizations.

## PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Colleen M. Garry	36th Middlesex	5/24/2017

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By Miss Garry of Dracut, a petition (subject to Joint Rule 12) of Colleen M. Garry relative to public transparency to support quality care outcomes in all child serving organizations. Children, Families and Persons with Disabilities.

# The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court (2017-2018)

An Act relative to enhancing public transparency to support quality care outcomes in all child serving organizations.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 22N of chapter 7 of the General Laws is hereby amended by adding

2 after the ninth paragraph the following paragraph: -

3 "The bureau shall annually provide notice to all governmental units, including school

4 committees, who are purchasers of special education programs pursuant to chapter 71B of the

5 availability and location of Uniform Financial Statement and Independent Auditor's Reports

6 (UFR) as defined in regulation by the division that have been completed and submitted to said

7 division in accordance with 808 CMR 1.04."

8 SECTION 2. Section 55A of chapter 15 of the General Laws is hereby amended after the
9 fifth paragraph by adding the following five paragraphs: -

10 "The office shall make said reviews, findings, recommendations, methods for improving
11 any deficiencies identified by the office and any required corrective action plans available on the
12 department's website."

13 "The office shall make available on the department's website annual restraint data in the 14 aggregate, information in the aggregate on the number injuries related to restraints for schools, 15 charter schools and school districts, including regional school districts, and make this 16 information available in the aggregate for each school, provided that the office shall adequately 17 describe the nature of the student population and any associated behaviors for the student 18 population served in relation to the number of reported restraints, and provided further that the 19 information required in this paragraph complies with state and federal child and student privacy 20 laws, including the provisions of 20 U.S.C. 1232g and 34 CFR Part 99. Nothing in this section 21 shall be determined to supersede any regulations and policies of the department relating to the 22 privacy of a child. The office shall promulgate regulations, subject to chapter 30A, to determine 23 a process to annually make available on its website the aggregate number of critical incident 24 reports, in the aggregate and for each program, documenting serious incidents as determined by 25 the department where the health and safety of a child was determined to be at risk.

26 "Nothing in this section prevents schools, charter schools and school districts, including 27 regional school districts, from appealing to the office regarding the accuracy of the information 28 required to be made available by this section. In an event where the office is unwilling to make 29 changes to the available information, a school, charter school, school district and regional school 30 district shall have the right to include a clarifying statement in the area of the department's 31 website where said information is made available."

32 "In promulgating regulations in accordance with this section, the office shall require the 33 department to make the required information and data available in the aggregate and by school, 34 charter school and school districts, including regional school districts. Reports for schools, 35 charter schools and school districts, including regional school districts shall compare the 36 program to other such schools according to: (a) the type of program (b) the age, sex and race of 37 applicable student populations, (c) the type and size of a school, (d) the type of disabilities served 38 by a school or program and the level of care required by said disabilities, (e) the number of days 39 of service and the hours of service per day, in the aggregate by a school, charter school and 40 school districts, including regional school districts; provided further that the department shall 41 also ensure that said regulations comply with state and federal child and student privacy laws, 42 including the provisions of 20 U.S.C. 1232g and 34 CFR Part 99. Nothing in this section shall be 43 determined to supersede any regulations and policies of the department relating to the privacy of 44 a child.

45 There shall be established in accordance with this section a commission established by 46 the office that shall (1) define the levels of care required by said disabilities as used in the 47 preceding paragraph, provided that the said levels of care are defined based on factors that 48 include a level of cognitive functioning and or any self-injurious, aggressive, assaultive or any 49 other behaviors that are unsafe or threaten the health and safety of a student, his or her peers, 50 teachers and school or program staff; and (2) provide recommendations relating to opportunities 51 for quality improvement by utilizing said information and data required to be made available in 52 accordance with this section, provided that said commission include the following: a 53 representative from the department; a parent of a school age child with a disability as defined by 54 section 1 of chapter 71B of the General Laws; and an administrator or staff member of a school,

charter school or school district, including a regional school district, responsible for making saidinformation to the department.

57	Provided further that the names of any teachers, staff members or other employees who
58	are named in a restraint report filed in accordance with the regulations shall be considered
59	exempt according to section 10B of Chapter 66 of the General Laws.
60	SECTION 3. Chapter 15D of the General Laws is hereby amended by adding after
61	section 7 the following section: -
62	Section 7A. Public information for licensed programs
63	(i) The department shall promulgate regulations, subject to chapter 30A, to determine
64	a process to annually make available on its website information relating to the license and
65	approval of each department licensed and or funded program. This information shall include the
66	name and location of each program and the effective date of the license and or renewal of each
67	program and any related licensing reports.
68	(ii) The department shall promulgate regulations, subject to chapter 30A, to determine
69	a process to annually make available on its website the number of critical incident reports in the
70	aggregate and for each program that documents serious incidents as determined by the
71	department where the health and safety of a child was determined to be at risk.
72	(iii) The department shall make available on its website annual restraint data in the
73	aggregate and for each program licensed, funded or approved by the department in the aggregate,
74	including information regarding the number of injuries related to restraints, provided that the
75	department shall adequately describe the nature of the student population and any associated

behaviors for the student population served in relation to the number of reported restraints foreach program.

In promulgating regulations in accordance with this section, the department shall ensure said regulations comply with state and federal child and student privacy laws, including the provisions of 20 U.S.C. 1232g and 34 CFR Part 99. Nothing in this section shall be determined to supersede any regulations and policies of the department relating to the privacy of a child.

Nothing in this section prevents a licensed or funded program from appealing to the department regarding the accuracy of the information required to be made available by this section. In an event where the department is unwilling to make changes to the available information, a program shall have the right to include a clarifying statement in the area of the department's website where said information is made available.

87 In promulgating regulations in accordance with this section, the department shall make 88 the required information and data available in the aggregate and by approved or licensed 89 program type and by individual approved or licensed program. Reports for individual approved 90 or licensed programs shall compare the program to other approved or licensed programs 91 according to: (a) the type of program, day or residential or other program type (b) the age, sex 92 and race of applicable student populations, (c) the type and size of a school or program licensed, 93 funded or approved by the department, (d) the type of disabilities served by a school or program 94 and the level of care required by said disabilities, (e) the number of days of service and the hours 95 of service per day, in the aggregate by a department licensed, funded or approved school or 96 program; provided further that the department shall also ensure that said regulations comply with 97 state and federal child and student privacy laws, including the provisions of 20 U.S.C. 1232g and 34 CFR Part 99. Nothing in this section shall be determined to supersede any regulations andpolicies of the department relating to the privacy of a child.

100 There shall be established in accordance with this section a commission established by 101 the department that shall (1) define the levels of care required by said disabilities as used in the 102 preceding paragraph, provided that the said levels of care are defined based on factors that include a level of cognitive functioning and or any self-injurious, aggressive, assaultive or any 103 104 other behaviors that are unsafe or threaten the health and safety of a student, his or her peers, 105 teachers and school or program staff; and (2) provide recommendations relating to opportunities 106 for quality improvement by utilizing said information and data required to be made available in 107 accordance with this section, provided that said commission include: a representative from the 108 department; a parent of a school age child with a disability as defined by section 1 of chapter 109 71B of the General Laws; an administrator or staff member of a school licensed, funded or 110 approved by the department responsible for making said information to the department.

Provided further that the names of any teachers, staff members or other employees who are named in a restraint report filed in accordance with the regulations shall be considered exempt according to section 10B of Chapter 66 of the General Laws.

SECTION 4. Section 1 of chapter 18A of the General Laws is hereby amended by
inserting after the second paragraph the following paragraphs: -

116 "The department shall promulgate regulations, subject to chapter 30A, to determine a 117 process to annually make available on its website the number of critical incident reports in the 118 aggregate and for each detention center as identified in section 5 of said chapter and any cities 119 towns, public agencies and private nonprofit agencies funded by the department that documents serious incidents as determined by the department where the health and safety of a child wasdetermined to be at risk.

122 "The department shall make available on its website annual restraint data in the aggregate 123 and for each detention center as identified in section 5 of said chapter and any cities towns, 124 public agencies and private nonprofit agencies funded by the department, including information 125 regarding the number of injuries related to restraints, provided that the department shall 126 adequately describe the nature of the youth population and any associated behaviors for the 127 youth population served in relation to the number of reported restraints for each funded program. 128 "In promulgating regulations in accordance with this section, the department shall ensure 129 said regulations comply with state and federal child and student privacy laws, including the 130 provisions of 20 U.S.C. 1232g and 34 CFR Part 99 and the federal Health Insurance Portability 131 and Accountability Act of 1996. Nothing in this section shall be determined to supersede any 132 regulations and policies of the department relating to the privacy of a child. 133 "Nothing in this section prevents a detention center as identified in section 5 of said 134 chapter and any cities towns, public agencies and private nonprofit agencies funded by the 135 department from appealing to the department regarding the accuracy of the information required 136 to be made available by this section. In an event where the department is unwilling to make 137 changes to the available information, a detention center as identified in section 5 of said chapter

and any cities towns, public agencies and private nonprofit agencies funded by the department
shall have the right to include a clarifying statement in the area of the department's website
where said information is made available.

141 "In promulgating regulations in accordance with this section, the department shall make 142 the required information and data available in the aggregate and by each detention center as 143 identified in section 5 of said chapter and any cities towns, public agencies and private nonprofit 144 agencies funded by the department. Reports for each detention center as identified in section 5 145 of said chapter and any cities towns, public agencies and private nonprofit agencies funded by 146 the department shall compare each detention center as identified in section 5 of said chapter and 147 any cities towns, public agencies and private nonprofit agencies funded by the department 148 according to: (a) the type of program (b) the age, sex and race of applicable populations, (c) the 149 type and size of a said facility, (d) the population served by said facility and the level of care 150 required by said population, (e) the number of days of service and the hours of service per day, in 151 the aggregate; provided further that the department shall also ensure that said regulations comply 152 with state and federal child and student privacy laws, including the provisions of 20 U.S.C. 153 1232g and 34 CFR Part 99. The process to make public and available said information shall be 154 determined in a manner to ensure patient privacy and to comply with state and federal privacy 155 laws, including the federal Health Insurance Portability and Accountability Act of 1996.

156 "There shall be established in accordance with this section a commission established by 157 the department that shall (1) define the levels of care required by said population as used in the 158 preceding paragraph, provided that the said levels of care are defined based on factors that 159 include a level of cognitive functioning and or any self-injurious, aggressive, assaultive or any 160 other behaviors that are unsafe or threaten the health and safety of a an individual, his or her 161 peers, department and or program staff; and (2) provide recommendations relating to 162 opportunities for quality improvement by utilizing said information and data required to be made 163 available in accordance with this section, provided that said commission include one

164 representative from the department and one administrator or staff member of a private, county or 165 municipal facility or department or ward or any such facility licensed by the department."

Provided further that the names of any teachers, staff members or other employees who are named in a restraint report filed in accordance with the regulations shall be considered exempt according to section 10B of Chapter 66 of the General Laws.

169 SECTION 5. Section 1 of chapter 18C of the General Laws is hereby amended by
170 inserting the following words with the following meanings: -

171 "Child", any person under the age of 18 or under the age of 22 if that person is a child172 with special needs.

173 "Child with special needs", a child who, because of temporary or permanent disabilities
174 arising from intellectual, sensory, emotional, or environmental factors, or other specific learning
175 disabilities, is or would be unable to progress effectively in a regular school program.

SECTION 6. Section 5 of chapter 18C of the General Laws is hereby amended after
clause (h) by adding the following two clauses: -

(i) The child advocate with the executive office of education and the executive office
of health and human services shall promulgate regulations, subject to chapter 30A, to determine
a process to annually make available and public on a public website or public database the
following information for each state funded, approved or licensed program, including public
schools, serving a child or a child with special needs under the jurisdiction of each respective
executive agency, and provided further that said information be made available for private
schools approved pursuant to section 1 of chapter 76 of the General Laws.

(1) The annual number of substantiated reports in the aggregate and the number of
said reports per days of care for each program filed in accordance with section 51A of Chapter
119 of the General Laws and any substantiated reports filed in accordance with section 15 of
Chapter 19A and Chapter 19C against the program and or its employees, including the annual
number of said reports per days of care resulting in hospitalization, death, and or criminal
charges of which the defendants were found guilty; and

191 (2) The annual of substantiated reports in the aggregate and the number of said
192 reports per days of care for each program filed in accordance with section 51A of Chapter 119 of
193 the General Laws and such substantiated reports filed in accordance with Chapter 19C related to
194 the use of restraints.

The process to make public and available said information shall be determined in a manner that identifies the number of substantiated reports per days of care for each program and the number of substantiated reports per days of care that were self-reported by a program and or its staff, provided further that said process will be determined in a manner to ensure child privacy and the privacy of individuals and clients and shall comply with the provisions of section 12 of chapter 18C of the General Laws and 20 U.S.C. 1232g and 34 CFR Part 99.

Nothing in this section prevents such a state funded, approved or licensed program from appealing to the department regarding the accuracy of the information required to be made available by this section. In an event where the department is unwilling to make changes to the available information, a program shall have the right to include a clarifying statement in the area of the department's website where said information is made available.

206 (j) The child advocate together with the executive office of education and the 207 executive office of health and human services shall determine the feasibility of recommending 208 proposed regulations or policies that establish a consistent definition of restraint to agencies 209 within said secretariats that fund, license or approve child serving schools, programs or 210 organizations within one year after the effective date of this act; and provided further that the 211 child advocate together with said secretariats within one year after the effective date of this act 212 also issue a report to the governor of the commonwealth, the clerks of the house of 213 representatives and the senate, the chairs of the joint committee on education and the joint 214 committee on children, families and persons with disabilities that details the feasibility of 215 establishing a single online reporting system coordinated between agencies that allows for the 216 reporting of restraints and critical incidents by child serving schools, programs or organizations within the commonwealth. 217

218 SECTION 7. Section 19 of chapter 19 of the General Laws is hereby amended by adding
219 after clause (g) following clause: -

(h) As part of its licensing process, the department shall promulgate regulations, subject to chapter 30A, to determine a process to annually make available and public on a public website or public database the following information for any private, county or municipal facility or department or ward or any such facility licensed by the department serving any person under the age of 18 or under the age of 22 if that person is a child with special needs:

1.) Information relating to the license of each facility granted by the department. This
information shall include the name and location of each program and the effective date of the
license and or renewal of each program and any related licensing reports;

228 2.) The annual of substantiated reports in the aggregate and the number of said 229 reports per days of care for each facility filed in accordance with section 51A of Chapter 119 of 230 the General Laws and substantiated reports filed in accordance with Chapter 19C against the 231 program and or its employees, including the annual number of such substantiated reports per 232 days of care resulting in hospitalization, death, and or criminal charges of which the defendants 233 were found guilty, provided further that said information shall also include the number of 234 substantiated reports per days of care that were self-reported by a facility and or its staff.

3.) The annual number of substantiated reports in the aggregate and the number of
said reports per days of care for each facility filed in accordance with section 51A of Chapter
119 of the General Laws and such substantiated reports filed in accordance with Chapter 19C
related to the use of restraints, provided further that said information shall also include the
number of substantiated reports per days of care that were self-reported by a facility and or its
staff.; and

4.) Annual restraint data in the aggregate and for each program licensed, funded by the department in the aggregate, including information regarding the number of injuries related to restraints, provided that the department shall adequately describe the nature of the patient population and any associated behaviors for the patient population served in relation to the number of reported restraints for each licensed facility.

The department shall promulgate regulations, subject to chapter 30A, to determine a process to annually make available on its website the number of incident reports in the aggregate and for each program that documenting serious incidents as determined by the department where the health and safety of an individual with disabilities was determined to be at risk.

The process to make public and available said information shall be determined in a manner to ensure patient privacy and to comply with state and federal privacy laws, including the federal Health Insurance Portability and Accountability Act of 1996.

Nothing in this section prevents such facility from appealing to the department regarding the accuracy of the information required to be made available by this section. In an event where the department is unwilling to make changes to the available information, a facility shall have the right to include a clarifying statement in the area of the department's website where said information is made available.

258 In promulgating regulations in accordance with this section, the department shall make 259 the required information and data available in the aggregate and by private, county or municipal 260 facility or department or ward or any such facility licensed by the department. Reports for said 261 individual facilities shall compare the facility to other private, county or municipal facilities or 262 department or wards or any other such facility licensed by the department according to: (a) the 263 type of program (b) the age, sex and race of applicable populations, (c) the type and size of a said 264 facility, (d) the population served by said facility and the level of care required by said 265 population, (e) the number of days of service and the hours of service per day, in the aggregate; 266 provided further that the department shall also ensure that said regulations comply with state and 267 federal child and student privacy laws, including the provisions of 20 U.S.C. 1232g and 34 CFR 268 Part 99. The process to make public and available said information shall be determined in a 269 manner to ensure patient privacy and to comply with state and federal privacy laws, including the 270 federal Health Insurance Portability and Accountability Act of 1996.

271 There shall be established in accordance with this section a commission established by 272 the department that shall (1) define the levels of care required by said population as used in the 273 preceding paragraph, provided that the said levels of care are defined based on factors that 274 include a level of cognitive functioning and or any self-injurious, aggressive, assaultive or any 275 other behaviors that are unsafe or threaten the health and safety of an individual, his or her peers, 276 department and or program staff; and (2) provide recommendations relating to opportunities for 277 quality improvement by utilizing said information and data required to be made available in 278 accordance with this section, provided that said commission include one representative from the 279 department and one administrator or staff member of a private, county or municipal facility or 280 department or ward or any such facility licensed by the department. Provided further that the 281 names of any teachers, staff members or other employees who are named in a restraint report 282 filed in accordance with the regulations shall be considered exempt according to section 10B of 283 Chapter 66 of the General Laws.

284 SECTION 8. Section 15 of chapter 19B of the General Laws is hereby amended by
285 adding after clause (g) the following clause: -

(h) As part of its licensing process, department shall promulgate regulations, subject to
chapter 30A, to determine a process to annually make available and public on a public website or
public database the following information for any private, county or municipal facility or
department or ward or any such facility licensed by the department serving any person under the
age of 18 or under the age of 22 if that person is a child with special needs:

1.) Information relating to the license of each facility granted by the department. This
information shall include the name and location of each program and the effective date of the
license and or renewal of each program and any related licensing reports;

294 2.) The annual number of substantiated reports in the aggregate and the number of 295 said reports per days of care for each facility filed in accordance with section 51A of Chapter 296 119 of the General Laws and such substantiated reports filed in accordance with Chapter 19C 297 against the program and or its employees, including the annual number of such substantiated 298 reports per days of care resulting in hospitalization, death, and or criminal charges of which the 299 defendants were found guilty, provided further that said information shall also include the 300 number of substantiated reports per days of care that were self-reported by a facility and or its 301 staff.:

302 3.) The annual number of substantiated reports in the aggregate and the number of 303 said reports per days of care for each facility filed in accordance with section 51A of Chapter 304 119 of the General Laws and substantiated reports filed in accordance with Chapter 19C related 305 to the use of restraints, provided further that said information shall also include the number of 306 substantiated reports per days of care that were self-reported by a facility and or its staff;

4.) Annual restraint data in the aggregate and for each facility in the aggregate,
including information regarding the number of injuries related to restraints, provided that the
department shall adequately describe the nature of the patient population and any associated
behaviors for the patient population served in relation to the number of reported restraints for
each licensed facility.

The department shall promulgate regulations, subject to chapter 30A, to determine a process to annually make available on its website the number of incident reports in the aggregate and for each program that documenting serious incidents as determined by the department where the health and safety of an individual with disabilities was determined to be at risk.

The process to make public and available said information shall be determined in a manner to ensure patient privacy and to comply with state and federal privacy laws, including the federal Health Insurance Portability and Accountability Act of 1996.

Nothing in this section prevents such facility from appealing to the department regarding the accuracy of the information required to be made available by this section. In an event where the department is unwilling to make changes to the available information, a facility shall have the right to include a clarifying statement in the area of the department's website where said information is made available.

324 In promulgating regulations in accordance with this section, the department shall make 325 the required information and data available in the aggregate and by private, county or municipal 326 facility or department or ward or any such facility licensed by the department. Reports for said 327 individual facilities shall compare the facility to other private, county or municipal facilities or 328 department or wards or any other such facility licensed by the department according to: (a) the 329 type of program (b) the age, sex and race of applicable populations, (c) the type and size of a said 330 facility, (d) the population served by said facility and the level of care required by said 331 population, (e) the number of days of service and the hours of service per day, in the aggregate; 332 provided further that the department shall also ensure that said regulations comply with state and 333 federal child and student privacy laws, including the provisions of 20 U.S.C. 1232g and 34 CFR

Part 99. The process to make public and available said information shall be determined in a
manner to ensure patient privacy and to comply with state and federal privacy laws, including the
federal Health Insurance Portability and Accountability Act of 1996.

337 There shall be established in accordance with this section a commission established by 338 the department that shall (1) define the levels of care required by said population as used in the 339 preceding paragraph, provided that the said levels of care are defined based on factors that 340 include a level of cognitive functioning and or any self-injurious, aggressive, assaultive or any 341 other behaviors that are unsafe or threaten the health and safety of an individual, his or her peers, 342 department and or program staff; and (2) provide recommendations relating to opportunities for 343 quality improvement by utilizing said information and data required to be made available in 344 accordance with this section, provided that said commission include one representative from the 345 department and one administrator or staff member of a private, county or municipal facility or 346 department or ward or any such facility licensed by the department. Provided further that the 347 names of any teachers, staff members or other employees who are named in a restraint report 348 filed in accordance with the regulations shall be considered exempt according to section 10B of 349 Chapter 66 of the General Laws.

350 SECTION 9. Section 15A of chapter 19B of the General Laws is hereby amended by351 adding after clause (f) the following clause:

(g) As part of its licensing process, department shall promulgate regulations, subject to
chapter 30A, to determine a process to annually make available and public on a public website or
public database the following information for any private, county or municipal facility or

department or ward or any such facility licensed by the department serving any person under theage of 18 or under the age of 22 if that person is a child with special needs:

1.) Information relating to the license of each facility granted by the department. This
information shall include the name and location of each program and the effective date of the
license and or renewal of each program and any related licensing reports;

360 2.) The annual number of substantiated reports in the aggregate and the number of 361 said reports per days of care for each facility filed in accordance with section 51A of Chapter 362 119 of the General Laws and such substantiated reports filed in accordance with Chapter 19C 363 against the program and or its employees, including the annual number of such substantiated 364 reports per days of care resulting in hospitalization, death, and or criminal charges of which the 365 defendants were found guilty, provided further that said information shall also include the 366 number of substantiated reports per days of care that were self-reported by a facility and or its 367 staff:

3.) The annual number of substantiated reports in the aggregate and the number of 369 said reports per days of care for each program filed in accordance with section 51A of Chapter 370 119 of the General Laws and such substantiated reports filed in accordance with Chapter 19C 371 related to the use of restraints, provided further that said information shall also include the 372 number of substantiated reports per days of care that were self-reported by a facility and or its 373 staff;

4.) Annual restraint data in the aggregate and for each program licensed, funded by
the department in the aggregate, including information regarding the number of injuries related
to restraints, provided that the department shall adequately describe the nature of the patient

population and any associated behaviors for the patient population served in relation to thenumber of reported restraints for each licensed facility.

The department shall promulgate regulations, subject to chapter 30A, to determine a process to annually make available on its website the number of incident reports in the aggregate and for each program that documenting serious incidents as determined by the department where the health and safety of an individual with disabilities was determined to be at risk.

The process to make public and available said information shall be determined in a manner to ensure patient privacy and to comply with state and federal privacy laws, including the federal Health Insurance Portability and Accountability Act of 1996.

Nothing in this section prevents such facility from appealing to the department regarding the accuracy of the information required to be made available by this section. In an event where the department is unwilling to make changes to the available information, a facility shall have the right to include a clarifying statement in the area of the department's website where said information is made available.

391 In promulgating regulations in accordance with this section, the department shall make 392 the required information and data available in the aggregate and by private, county or municipal 393 facility or department or ward or any such facility licensed by the department. Reports for said 394 individual facilities shall compare the facility to other private, county or municipal facilities or 395 department or wards or any other such facility licensed by the department according to: (a) the 396 type of program (b) the age, sex and race of applicable populations, (c) the type and size of a said 397 facility, (d) the population served by said facility and the level of care required by said 398 population, (e) the number of days of service and the hours of service per day, in the aggregate;

399 provided further that the department shall also ensure that said regulations comply with state and 400 federal child and student privacy laws, including the provisions of 20 U.S.C. 1232g and 34 CFR 401 Part 99. The process to make public and available said information shall be determined in a 402 manner to ensure patient privacy and to comply with state and federal privacy laws, including the 403 federal Health Insurance Portability and Accountability Act of 1996.

404 There shall be established in accordance with this section a commission established by 405 the department that shall (1) define the levels of care required by said population as used in the 406 preceding paragraph, provided that the said levels of care are defined based on factors that 407 include a level of cognitive functioning and or any self-injurious, aggressive, assaultive or any 408 other behaviors that are unsafe or threaten the health and safety of an individual, his or her peers, 409 department and or program staff; and (2) provide recommendations relating to opportunities for 410 quality improvement by utilizing said information and data required to be made available in 411 accordance with this section, provided that said commission include one representative from the 412 department and one administrator or staff member of a private, county or municipal facility or 413 department or ward or any such facility licensed by the department.

414 Provided further that the names of any teachers, staff members or other employees who 415 are named in a restraint report filed in accordance with the regulations shall be considered 416 exempt according to section 10B of Chapter 66 of the General Laws.

417 SECTION 10. Section 4E of chapter 40 of the General Laws is hereby amended by418 adding at the end of clause (k) the following:

419 "The department shall make said reviews available on its website and any related
420 corrective action plan and additional information relative to said reviews available on its
421 website."

422 SECTION 11. Section 4E of chapter 40 of the General Laws is hereby amended by
423 adding at the end of clause (m) the following clause: -

424 (n) The department shall make available on its website annual restraint data for 425 collaborative programs in the aggregate, including information regarding the number injuries 426 related to restraints, provided that the department will make this information available in the 427 aggregate for each collaborative program per days of care on its website, and provided further 428 that said information shall also include the number of substantiated reports per days of care that 429 were self-reported by a collaborative program and or its staff and that the department shall 430 adequately describe the nature of the student population and any associated behaviors for the 431 student population served in relation to the number of reported restraints. The department shall 432 ensure said regulations comply with state and federal child and student privacy laws, including 433 the provisions of 20 U.S.C. 1232g and 34 CFR Part 99. Nothing in this section shall be 434 determined to supersede any regulations and policies of the department relating to the privacy of 435 a child. The board shall promulgate regulations, subject to chapter 30A, to determine a process 436 to annually make available on its website the aggregate number of critical incident reports, in the 437 aggregate and for each program, documenting serious incidents as determined by the department 438 where the health and safety of a child was determined to be at risk.

439 Nothing in this section prevents a collaborative program from appealing to the
440 department regarding the accuracy of the information required to be made available by this

section. In an event where the department is unwilling to make changes to the available
information, a program shall have the right to include a clarifying statement in the area of the
department's website where said information is made available.

444 In promulgating regulations in accordance with this section, the department shall make 445 the required information and data available in the aggregate and by individual collaborative 446 program. Reports for individual collaborative programs shall compare the program to other said 447 programs according to: (a) the type of program (b) the age, sex and race of applicable student 448 populations, (c) the type size of such programs, (d) the type of disabilities served by a said 449 program and the level of care required by said disabilities, (e) the number of days of service and 450 the hours of service per day, in the aggregate by a collaborative program; provided further that 451 the department shall also ensure that said regulations comply with state and federal child and 452 student privacy laws, including the provisions of 20 U.S.C. 1232g and 34 CFR Part 99. Nothing 453 in this section shall be determined to supersede any regulations and policies of the department 454 relating to the privacy of a child.

455 There shall be established in accordance with this section a commission established by 456 the department that shall (1) define the levels of care required by said population as used in the 457 preceding paragraph, provided that the said levels of care are defined based on factors that 458 include a level of cognitive functioning and or any self-injurious, aggressive, assaultive or any 459 other behaviors that are unsafe or threaten the health and safety of an individual, his or her peers, 460 department and or program staff; and (2) provide recommendations relating to opportunities for 461 quality improvement by utilizing said information and data required to be made available in 462 accordance with this section, provided that said commission include one representative from the 463 following: a representative from the department; a parent of a school age child with a disability

as defined by section 1 of chapter 71B of the General Laws; and an administrator or staff
member of a collaborative program responsible for making said information to the department.

466 Provided further that the names of any teachers, staff members or other employees who
467 are named in a restraint report filed in accordance with the regulations shall be considered
468 exempt according to section 10B of Chapter 66 of the General Laws.

469 SECTION 12. Section 1B of Chapter 69 of the General Laws is hereby amended by470 inserting after the seventh paragraph the following paragraph: -

471 "The board shall annually publish a supplemental report containing student achievement 472 data for each approved private special education school or program and collaborative program, 473 provided that such data shall include student performance on the statewide assessment system 474 approved by the board under section 1I, and provided further that the board shall include in said 475 report (1) data from the department of elementary and secondary education for each school or 476 program regarding the nature of the student disability population served and the relationship of 477 the disability to test score performance; and (2) information regarding school or program size 478 and student mobility rates for each program along with cautionary language and explanations to 479 allow parents and the public a means of understanding if the achievement data has any real 480 comparative value in comparing schools and or programs or from year to year. The board in 481 publishing said report shall exclude: (1) achievement data from schools with a number of 482 students that the board has determined does not meet the minimum number of students sufficient 483 to yield reliable data in accordance with 34 CFR 200.7(2)(i); and (2) achievement data from a 484 student of an approved private special education school or program or collaborative program 485 who has been enrolled in said school or program for less than a year in accordance with 34 CFR

486	200.20(d)(2)(3)(1) and (2). The board shall also include information on other student outcome
487	measures such as rates for student graduation, suspensions, expulsions and drop-outs as are
488	currently reported by the department of elementary and secondary education in the Individuals
489	with Disabilities Education Act (IDEA) Part B Annual Performance Plan."
490	Nothing in this section prevents such schools or programs from appealing to the
491	department regarding the accuracy of the information required to be made available by this
492	section. In an event where the department is unwilling to make changes to the available
493	information, said schools and programs shall have the right to include a clarifying statement in
494	the area of the department's website where said information is made available.
495	SECTION 13. Section 1B of chapter 69 of the General Laws is hereby amended by
496	adding after the twenty-fifth paragraph the following paragraphs: -
497	"In establishing the policies deemed necessary to fulfill the purposes of chapter seventy-
497 498	"In establishing the policies deemed necessary to fulfill the purposes of chapter seventy- one B, the board shall require the department of elementary and secondary education to make
498	one B, the board shall require the department of elementary and secondary education to make
498 499	one B, the board shall require the department of elementary and secondary education to make public on its website information relating to the approval or re-approval of private day and
498 499 500	one B, the board shall require the department of elementary and secondary education to make public on its website information relating to the approval or re-approval of private day and residential special education school programs. This information shall include the name and
498 499 500 501	one B, the board shall require the department of elementary and secondary education to make public on its website information relating to the approval or re-approval of private day and residential special education school programs. This information shall include the name and location of each program and the effective date of the approval or re-approval reports, provided
498 499 500 501 502	one B, the board shall require the department of elementary and secondary education to make public on its website information relating to the approval or re-approval of private day and residential special education school programs. This information shall include the name and location of each program and the effective date of the approval or re-approval reports, provided further that said policies shall also require the publishing of annual restraint data in the aggregate
498 499 500 501 502 503	one B, the board shall require the department of elementary and secondary education to make public on its website information relating to the approval or re-approval of private day and residential special education school programs. This information shall include the name and location of each program and the effective date of the approval or re-approval reports, provided further that said policies shall also require the publishing of annual restraint data in the aggregate and for each program, including information, in the aggregate and for each program, regarding
<ul> <li>498</li> <li>499</li> <li>500</li> <li>501</li> <li>502</li> <li>503</li> <li>504</li> </ul>	one B, the board shall require the department of elementary and secondary education to make public on its website information relating to the approval or re-approval of private day and residential special education school programs. This information shall include the name and location of each program and the effective date of the approval or re-approval reports, provided further that said policies shall also require the publishing of annual restraint data in the aggregate and for each program, including information, in the aggregate and for each program, regarding the number of injuries related to restraints, provided that the board shall adequately describe the

508 U.S.C. 1232g and 34 CFR Part 99. Nothing in this paragraph shall be determined to supersede 509 any regulations and policies of the department relating to the privacy of a child. The board shall 510 promulgate regulations, subject to chapter 30A, to determine a process to annually make 511 available on its website the aggregate number of critical incident reports, in the aggregate and for 512 each program, documenting serious incidents as determined by the department where the health 513 and safety of a child was determined to be at risk.

514 "Nothing in this section prevents such private day and residential special education 515 school programs from appealing to the department regarding the accuracy of the information 516 required to be made available by this section. In an event where the department is unwilling to 517 make changes to the available information, said private day and residential special education 518 school programs shall have the right to include a clarifying statement in the area of the 519 department's website where said information is made available.

520 "In promulgating regulations in accordance with this section, the board shall require the 521 department to make the required information and data available in the aggregate and by approved 522 or licensed program type and by individual approved or licensed program. Reports for 523 individual approved or licensed programs shall compare the program to other approved or 524 licensed programs according to: (a) the type of program, day or residential or other program type 525 (b) the age, sex and race of applicable student populations, (c) the type and size of a school or 526 program licensed, funded or approved by the department, (d) the type of disabilities served by a 527 school or program and the level of care required by said disabilities, (e) the number of days of 528 service and the hours of service per day, in the aggregate by a department licensed, funded or 529 approved school or program; provided further that the department shall also ensure that said 530 regulations comply with state and federal child and student privacy laws, including the

531	provisions of 20 U.S.C. 1232g and 34 CFR Part 99. Nothing in this section shall be determined
532	to supersede any regulations and policies of the department relating to the privacy of a child.
533	"There shall be established in accordance with this section a commission established by
534	the department that shall (1) define the levels of care required by said disabilities as used in the
535	preceding paragraph, provided that the said levels of care are defined based on factors that
536	include a level of cognitive functioning and or any self-injurious, aggressive, assaultive or any
537	other behaviors that are unsafe or threaten the health and safety of a student, his or her peers,
538	teachers and school or program staff; and (2) to provide recommendations relating to
539	opportunities for quality improvement by utilizing said information and data required to be made
540	available in accordance with this section, provided that said commission include one
541	representative from the following: a representative from the department; a parent of a school age
542	child with a disability as defined by section 1 of chapter 71B of the General Laws; and an
543	administrator or staff member of a school licensed, funded or approved by the department
544	responsible for making said information to the department."
545	Provided further that the names of any teachers, staff members or other employees who
546	are named in a restraint report filed in accordance with the regulations shall be considered
547	exempt according to section 10B of Chapter 66 of the General Laws.
548	SECTION 14. Chapter 111 of the General Laws is hereby amended by adding after
549	section 1 the following section: -
550	Section 1A. Public information for certain licensed programs
551	As part of its licensing process, department shall promulgate regulations, subject to
552	chapter 30A, to determine a process to annually make available and public on a public website or

public database the following information for each health care facility defined by section 25B
and each facility defined by section 51H licensed by the department serving any person under the
age of 18 or under the age of 22 if that person is a child with special needs:

556 5.) Information relating to the license of each health care facility and facility granted 557 by the department. This information shall include the name and location of each program and the 558 effective date of the license and or renewal of each program and any related licensing reports; 559 and

560 6.) The annual number of substantiated reports in the aggregate and the number of 561 said reports per days of care for each health care facility and facility filed in accordance with 562 section 51A of Chapter 119 of the General Laws and substantiated reports filed in accordance 563 with section 15 of chapter 19A and Chapter 19C against the program and or its employees, 564 relating to any use of restraints, including the annual number of such substantiated reports per 565 days of care resulting in hospitalization, death, and or criminal charges of which the defendants 566 were found guilty, provided that said information shall also include the number of substantiated 567 reports per days of care that were self-reported by a facility and or its staff.

The process to make public and available said information shall be determined in a manner to ensure patient privacy and to comply with state and federal privacy laws, including the federal Health Insurance Portability and Accountability Act of 1996.

571 Nothing in this section prevents such health care facilities and facilities from appealing to 572 the department regarding the accuracy of the information required to be made available by this 573 section. In an event where the department is unwilling to make changes to the available information, said health care facilities and facilities shall have the right to include a clarifyingstatement in the area of the department's website where said information is made available.

576 SECTION 15. Section 2 of Chapter 123 is hereby amended by adding at the end of the 577 first paragraph the following paragraphs: -

578 "The department shall promulgate regulations, subject to chapter 30A, to determine a 579 process to annually make available and public on a public website or public database the 580 following information for any private, county or municipal facility or department or ward or any 581 such facility licensed by the department serving any person under the age of 18 or under the age 582 of 22 if that person is a child with special needs (1) information relating name and location of 583 each department facility; (2) the annual number of substantiated reports in the aggregate and the 584 number of said reports per days of care for each facility filed in accordance with section 51A of 585 Chapter 119 of the General Laws and substantiated reports filed in accordance with section 15 of 586 Chapter 19A and Chapter 19C against the program and or its employees, including the annual 587 number of such substantiated reports per days of care resulting in hospitalization, death, and or 588 criminal charges of which the defendants were found guilty; (3) the annual number of 589 substantiated reports in the aggregate and the number of said reports per days of care filed in 590 accordance with section 51A of Chapter 119 of the General Laws and substantiated reports filed 591 in accordance with section 15 of Chapter 19A and Chapter 19C related to the use of restraints; 592 and (4) annual restraint data in the aggregate and for each department facility, including 593 regarding the number of injuries related to restraints, provided that said information shall also 594 include the number of substantiated reports per days of care that were self-reported by a facility 595 and or its staff. The department shall adequately describe the nature of the patient population and 596 any associated behaviors for the patient population served in relation to the number of reported

restraints for each facility. The process to make public and available said information shall be determined in a manner to ensure patient privacy and to comply with state and federal privacy laws, including the federal Health Insurance Portability and Accountability Act of 1996.

600 "Nothing in this section prevents such facilities from appealing to the department 601 regarding the accuracy of the information required to be made available by this section. In an 602 event where the department is unwilling to make changes to the available information, said 603 facilities shall have the right to include a clarifying statement in the area of the department's 604 website where said information is made available.

605 "In promulgating regulations in accordance with this section, the department shall make 606 the required information and data available in the aggregate and by private, county or municipal 607 facility or department or ward or any such facility licensed by the department. Reports for said 608 individual facilities shall compare the facility to other private, county or municipal facilities or 609 department or wards or any other such facility licensed by the department according to: (a) the 610 type of program (b) the age, sex and race of applicable populations, (c) the type and size of a said 611 facility, (d) the population served by said facility and the level of care required by said 612 population, (e) the number of days of service and the hours of service per day, in the aggregate; 613 provided further that the department shall also ensure that said regulations comply with state and 614 federal child and student privacy laws, including the provisions of 20 U.S.C. 1232g and 34 CFR 615 Part 99. The process to make public and available said information shall be determined in a 616 manner to ensure patient privacy and to comply with state and federal privacy laws, including the 617 federal Health Insurance Portability and Accountability Act of 1996.

618 "There shall be established in accordance with this section a commission established by 619 the department that shall (1) define the levels of care required by said population as used in the 620 preceding paragraph, provided that the said levels of care are defined based on factors that 621 include a level of cognitive functioning and or any self-injurious, aggressive, assaultive or any 622 other behaviors that are unsafe or threaten the health and safety of an individual, his or her peers, 623 department and or program staff; and (2) to provide recommendations relating to opportunities 624 for quality improvement by utilizing said information and data required to be made available in 625 accordance with this section, provided that said commission include one representative from the 626 department and one administrator or staff member of a private, county or municipal facility or 627 department or ward or any such facility licensed by the department."

Provided further that the names of any teachers, staff members or other employees who
are named in a restraint report filed in accordance with the regulations shall be considered
exempt according to section 10B of Chapter 66 of the General Laws.

631 SECTION 16. Notwithstanding any general or special law to the contrary, the office of 632 the child advocate, the executive office of education, and the executive office of health and 633 human services, together with the respective departments of said agencies, shall, by January 1, 634 2019, determine a process to utilize information included but not limited to that required to be 635 made available by this act together with the respective licensed, funded and or approved 636 programs and facilities and administrators and staff of each office and or department to develop 637 quality improvement professional learning communities within each office and or department, 638 provided that said professional learning communities shall develop practices and policies to 639 periodically review the system wide information required to be made public and available by this 640 act, and provided further that such professional learning communities shall seek to advance

641 professional development and program quality and improvement for the purpose of enhancing
642 outcomes to improve the care and treatment of children, students, individuals, and individuals
643 with disabilities in each applicable state funded, licensed or approved program or facility related
644 to this act.